

## **REMARKS**

The enclosed is responsive to the Examiner's Notice of Non-Compliant Amendment mailed April 26, 2010 and to the Examiner's Office Action mailed on October 14, 2009. By way of the present response applicant has (1) amended claims 1, 3, and 6; (2) added no new claims; and (3) canceled claim 2 without prejudice. No new matter has been added. Reconsideration of this application is respectfully requested.

With regard to the Notice of Non-Compliant Amendment the Examiner stated that the abstract was not compliant because it was not presented on a separate page. Applicant has amended the Abstract to be contained on a separate sheet. Applicant respectfully submits that the amendments do not add new matter and requests that the Examiner withdraw the objection to the Abstract.

The Examiner has objected to the Specification for allegedly improperly incorporating essential material by reference. Applicant respectfully submits that the Specification does not include any incorporation by reference. There is a reference to a United States application and its European counterpart in lines 6-7 on page 1 of the Specification as originally filed and a reference to a United Kingdom application in lines 11-12 on page 12 of the Specification as originally filed. The references, however, are not incorporated by reference. Applicant requests that the Examiner withdraw the objection to the Specification.

Claims 1-14 stand rejected under 35 U.S.C. §102(b) as anticipated by or, in the alternative, under 35 U.S.C. §103(a) as obvious over U.S. Patent No. 6,409,625 to Sakai et al. ("Sakai").

Sakai discloses a conventional ratio controlled type of variator that receives a control input that corresponds to a chosen variator ratio and automatically adjusts to provide the chosen ratio. In Sakai, pressurized oil is supplied to an up shift and downshift oil chamber

based a target speed ratio. (Sakai, C4:L24-28). A speed ratio control valve controls flow rates of the passages for the oil chambers. (Sakai, Abstract). The speed ratio control valve includes a spool that is driven by a step motor that displaces the spool in order to achieve the target speed ratio. (Sakai, C5:L11,22). When a vehicle is traveling forward, a command corresponding to the target speed ratio is input to the step motor to displace the spool, which adjusts the angles of rollers to coincide with the angles for the target speed ratio. (Sakai, C5:L29-34). When the target speed ratio has been achieved, the spool in the valve is held in position. (Sakai, C5:L37-40).

Claim 1 as amended reads in part “wherein the electronic control serves to determine the rate of flow in the hydraulic line, to **determine a consequent pressure change** between the actuator and the valve, and to adjust the valve setting **to compensate for the pressure change.**” (Emphasis added).

No part of Sakai discloses an electronic control that determines a flow rate in a hydraulic line, determines a pressure change between an actuator and a valve, and adjusts a valve setting to compensate for the pressure change because in Sakai, a valve is not adjusted based on a pressure change between an actuator and a valve. Instead, in Sakai, a valve is controlled based on a target speed ratio. In Sakai, a required target speed ratio is set for the variator by use of the speed ratio control valve. The speed ratio control valve controls pressures applied to the variator to **bring it to a desired target speed ratio** by displacing a spool in the valve. When the target speed ratio has been achieved, the spool in the valve is held in position. (Sakai, C5:L37-40). Therefore, Sakai discloses a variator that is ratio controlled. In contrast, claim 1 reads that the valve setting is adjusted to compensate for pressure change. Therefore, Sakai fails to teach or suggest “wherein the electronic control serves to determine the rate of flow in the hydraulic line, to determine a consequent pressure

change between the actuator and the valve, and to adjust the valve setting to compensate for the pressure change”, as set forth in claim 1.

Given that claims 3-14 are dependent claims with respect to claim 1, either directly or indirectly, and add additional limitations, applicant submits that claims 1 and 3-14 are not anticipated by Sakai under 35 U.S.C. § 102(b). Accordingly, applicant respectfully submits that the rejection of claims 1 and 3-14 under 35 U.S.C. §102(b) as being anticipated by Sakai has been overcome.

The Examiner also cites Sakai under 35 U.S.C. §103(a). Presumably the Examiner is combining Sakai with alleged common knowledge in the art. Independent claim 1 is not anticipated by Sakai. Neither does Sakai and alleged common knowledge in the art render claim 1 obvious under 35 U.S.C. §103(a). Given that claims 3-14 are dependent claims with respect to claim 1, either directly or indirectly, and add additional limitations, applicant submits that claims 3-14 are not anticipated by Sakai. Neither does Sakai and alleged common knowledge in the art render claims 3-14 obvious under 35 U.S.C. §103(a). Accordingly, applicant respectfully submits that the rejection of claims 1 and 3-14 under 35 U.S.C. §103(a) has been overcome. However, if the Examiner persists in the rejection under 35 U.S.C. §103(a), applicant respectfully requests that the Examiner fully and explicitly show the foundation for a 35 U.S.C. §103(a) rejection.

Applicant respectfully submits that in view of the amendments and arguments set forth herein, the applicable objections and rejections have been overcome. Applicant reserves all rights under doctrine of equivalents.

Pursuant to 37 C.F.R. 1.136(a)(3), applicant hereby requests and authorizes the U.S. Patent and Trademark Office to (1) treat any concurrent or future reply that requires a petition for extension of time as incorporating a petition for extension of time for the appropriate length of time and (2) charge all required fees, including extension of time fees and fees under 37 C.F.R. 1.16 and 1.17, to Deposit Account No. 02-2666

Respectfully submitted,  
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